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April 13, 2022

By ECF

Hon. Barbara Moses
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Rm. 740
New York, NY 10007

MEMO ENDORSED

Re: S.H.W. et ano. v. New York City Department of Education
21 CV 4808 (AJN) (BCM)

Dear Judge Moses:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, and I am assigned to represent the Defendant in the above referenced matter, wherein Plaintiffs allege, *inter alia*, that the State Review Officer (SRO) issued an erroneous decision concerning the issue of pendency and seek attorney's fees and costs pursuant to the Individuals with Disabilities in Education Act (IDEA). I write to respectfully request that the upcoming settlement conference before Your Honor scheduled for April 20, 2022 be adjourned *sine die*.

Since the parties' last status update to the Court on February 25, 2022, Defendant has completed its production of documents to Plaintiffs and takes the position that discovery in this matter is now complete. Additionally, Plaintiffs provided Defendant with updated billing records for work performed on this case as of April 7, 2022. The parties then met and conferred on April 8, 2022 concerning the possibility of resolving the case through a negotiated settlement. Having discussed the merits of Plaintiffs' claims further and after evaluating the attorneys' fees accumulated thus far, Defendant DOE does not believe that settlement discussions with the Court would be fruitful at this point. Accordingly, to avoid squandering the Court's time and resources in unproductive settlement negotiations, the parties jointly request that the Court adjourn the currently scheduled settlement conference *sine die*. Once the substantive issues in the case have been resolved, which the parties submit involve a discrete subject area, the issue of attorneys' fees will likely be more easily resolved, assuming Plaintiffs achieve prevailing party status. To that

end, the parties respectfully request that the Court adopt the following briefing schedule for their cross motions for summary judgment:

-Plaintiffs' motion for summary judgment to be due June 1, 2022;

-Defendant's cross motion for summary judgment and opposition to Plaintiffs' motion to be due July 1, 2022;

-Plaintiffs' Reply to be due 7/22/22; and

-Defendant's Reply, if any, to be due 8/15/22

Thank you for Your Honor's consideration.

Respectfully yours,

/s/

Mark G. Toews

Assistant Corporation Counsel

cc (via ECF):

Plaintiff's counsel

Application GRANTED to the extent that the settlement conference scheduled for April 20, 2022 is ADJOURNED *sine die*. As the proposed cross-motions for summary judgment are not within the scope of my reference, the parties' request regarding a briefing schedule for those motions should be addressed to the district judge. SO ORDERED.



Barbara Moses
United States Magistrate Judge
April 14, 2022